

2
1 Michael Gerard Fletcher (State Bar No. 070849)
2 mfletcher@frandzel.com
3 Bernard R. Given, II (State Bar No. 134718)
4 bgiven@frandzel.com
5 Faye C. Rasch (State Bar No. 253838)
6 frasch@frandzel.com
7 FRANDZEL ROBINS BLOOM & CSATO, L.C.
8 6500 Wilshire Boulevard
9 Seventeenth Floor
10 Los Angeles, California 90048-4920
11 Telephone: (323) 852-1000
12 Facsimile: (323) 651-2577
13
14 Attorneys for Citizens Business Bank
15
16

17 **UNITED STATES BANKRUPTCY COURT**
18 **EASTERN DISTRICT OF CALIFORNIA**

19 **FRESNO DIVISION**

20 In re

21 CASE No. 09-17500-WRL

22 ST. JAMES and ENNIS HANFORD
23 INVESTMENT, LLC,

24 Chapter 11

25 Debtor.

26 **DC NO. PLF-2**

27 **OPPOSITION OF SECURED CREDITOR**
28 **CITIZENS BUSINESS BANK TO USE OF**
29 **ITS CASH COLLATERAL**

30 Date: September 2, 2009

31 Time: 1:30 p.m.

32 Ctrm.: A, Rm. 11

33
34 TO: **THE HONORABLE WHITNEY RIMEL, UNITED STATES BANKRUPTCY**
35 **JUDGE.**

36
37 1. Citizen Business Bank ("Citizens") is this Estate's largest creditor and apparently its
38 only secured creditor, being owed in excess of \$18 million dollars. Citizens holds as collateral a
39 First Lien Deed of Trust on approximately 302 acres of land ("Real Property") that the Debtor St.
40 James and Ennis Hanford Investment, LLC ("St. James" or "Debtor") wants to develop. The
41 Citizens Deed of Trust recorded against the Real Property also includes an express grant of an

1 assignment over all rents, issues, profits, and leases of the Real Property.

2 2. As evidenced by the Declaration of G. Allen Bloyd filed simultaneously herewith,
3 and which is adopted and incorporated herein by reference, Citizens has analyzed the value of the
4 Real Property and has concluded that it is likely substantially under-secured in that the value of
5 the Real Property is millions of dollars less than the amounts owed by St. James to Citizens.¹

6 3. The Motion before the Court seeks to use \$47,000 of rental income from the farm
7 lease ("Assigned Rents") to pay the pre-petition unsecured claim of the only other creditor listed in
8 the Debtor's schedules. The Motion offers no disclosure that the Assigned Rents are Citizens' cash
9 collateral, and no evidence that Citizens would be adequately protected by this use of its cash
10 collateral. Accordingly, the Motion must be denied as it fails to comply with Section 363 of the
11 Bankruptcy Code.

12 4. In addition, but without waiving the foregoing, Citizens alleges that there is no
13 emergency here requiring Citizens to defend against use of its cash collateral on just a few days
14 notice. Citizens sued St. James in early May 2009. There is no irreparable harm to St. James if it
15 were to bring this Motion on proper notice.

16 **WHEREFORE**, Citizens respectfully requests that the Court deny the Motion and grant
17 such other and further relief as is just and proper.

19 DATED: September 1, 2009

FRANDZEL ROBINS BLOOM & CSATO, L.C.
MICHAEL GERARD FLETCHER
BERNARD R. GIVEN, II
FAYE C. RASCH

23 By: /s/ Michael Gerard Fletcher

24 MICHAEL GERARD FLETCHER
25 Attorneys for Citizens Business Bank

27 1 Citizens is close to having a final third party appraisal of the Real Property that will
28 establish the magnitude of the expected short fall in collateral.